IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1926 OF 2005

Suresh Dindayal Agarwal ...Petitioner
Vs.
Pritam Vedprakash Gupta & Anr. ...Respondents

Shri R.N. Sanghavi for the Petitioner.
Shri Anil Dhaval for the Respondent Nos.8 and 9.
Ms Rajeshree Gadhvi, A.P.P. for the State.

CORAM : A. S. OKA, J.
DATE : OCTOBER 14, 2005.

P.C.:

1. Heard the Advocate appearing for the Petitioner, the Advocate for the Respondent Nos.8 and 9. The office noting shows that service affidavit is filed showing service of notice on all Respondents except the Respondent Nos.12 and 13.

2. On 13th September, 2005, notice for Final Disposal was ordered to be issued to the Respondents. The Petitioner herein is an accused in different private complaints filed by the Respondent Nos.1 to 13 under section 138 of the Negotiable Instruments Act, 1881. Some of the private complaints were filed in the Courts of Judicial Magistrate, First Class at Pune and two of the private complaints filed by the Respondent Nos.12 and 13 are pending in the Court of the learned Judicial Magistrate, First Class at Vadgaon Maval. An Application was made by the

Petitioner before the Sessions Court for transfer of all the said complaints to one and the same Court. The learned Joint District Judge, Pune by Judgment and Order dated 20th July, 2005 partly allowed the Application for transfer and directed that three cases should be transferred to the Court of the 10th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class, Pune for disposal alongwith five other cases which were already pending in the said Court. The learned Judge rejected the prayer as regards Criminal Case Nos.15045/2004, 1286/2005, 8407/2005, 488/2005 on the ground that the said cases are part-heard. Prayer made as regards case No.324/2005 was rejected on the ground that it will not be convenient for the complainant if the said case is transferred to the Court at Pune.

3. The learned Advocate appearing for the Petitioner pointed out that the Criminal Case Nos.15045/2004, 1286/2005, 8407/2005, 488/2005 cannot be said to be part-heard matters as only the affidavits of examination-in-chief have been filed by the respective complainants. He submitted that considering the convenience of the Applicant who is an accused, even the cases which are pending in the courts at Vadgaon Maval ought to have been

transferred. The learned Advocate appearing for the Respondent Nos.8 and 9 has filed an affidavit of the Respondent No.8 in which it is stated that so far as the case No.8407 of 2005 is concerned, two prosecution witnesses have been already examined and cross-examined.

4. In my view, the learned Joint District Judge was justified in rejecting the prayer made for tansfer of the cases pending in the Court at Vadgaon Maval. The complainants in the said cases are not residents of Pune and since they are residents of Talegaon, it will be very inconvenient for them to attend the court at Pune. So far as case Nos.15045/2004, 1286/2005 and 8408/2005 are concerned, the said cases cannot be said to be part-heard in the sense that only the affidavits of examination-in-chief have been filed by the complainant. The said cases are pending in different Courts of Judicial Magistrates, First Class at Pune. In my view, there is no reason why the said three cases should not be transferred to the Court of the learned 10th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class, Pune to which court other cases have been ordered to be transferred. Prayer made for transfer of Criminal Case No.8407 of 2005 cannot be considered as two witnesses have been

already examined and cross-examined. Hence, Petition deserves to be partly allowed.

5. Hence, I pass the following order:

: O R D E R :

i) Criminal Case Nos.15045 of 2004, 1286 of 2005 and 8408 of 2005 are withdrawn from the Courts in which the same are pending and are transferred to the Court of the learned 10th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class, Pune for disposal alongwith the other connected cases pending in the said Court. On transfer of said cases, intimation of the dates fixed therein shall be sent to the respective complainants.

ii) Petition is disposed of in above terms.

iii) No orders as to costs.

JUDGE